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2 August 1976

MEMORANDUM FOR: Director of Central Intelligence

FROM : Edward W. Proctor

SUBJECT : Classification

1. This memorandum summarizes my views on the problems of classification and access to intelligence and discusses some principles and approaches which I believe the Director of Central Intelligence and the Intelligence Community should pursue. It describes some of the most important classification problems under two headings:

- The general problems which apply to all kinds of classified information, including intelligence.
- The specific problems which apply to classified intelligence, particularly intelligence sources and methods.

General Problems

2. The fundamental document which governs classification and declassification (Executive Order 11652) applies to the broad range of official information bearing on U.S. national defense and foreign relations. Intelligence information, itself, is mentioned only as examples of classified information or as exceptions to specific provisions. Thus, changes that are necessary to rationalize the classification of intelligence would also require similar changes in the rules, practices, and attitudes with regard to the whole body of

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Classified by

Exempt from automatic declassification

Schedule of automatic declassification

Category: (1), (2), (3) or (4)

Declassified only on approval of the

Director of Central Intelligence

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classified information, most of which is generated in the Departments of State and Defense. Such changes would require the concerted efforts of officials and organizations beyond the direct control of the Director of Central Intelligence or the Intelligence Community.

3. Because of this, the Director of Central Intelligence and the Intelligence Community have direct control only over the classification and handling of certain information unique to the Intelligence Community. One solution to this problem is to create a separate category of classified intelligence information, complete with its own classification system and markings, to indicate that it is different from other classified information. This proposition, however, may not be politically feasible at this time. Another option is to use the currently acceptable marking, WARNING NOTICE--SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED. New directives on the minimal use of this marking and strict enforcement of its application could be more acceptable, though less effective, than a separate intelligence classification system. Either of these options would facilitate the implementation of any law that might be passed to provide legal penalties for the unauthorized disclosure of intelligence.

4. I believe that, except for the lack of legal sanctions for unauthorized disclosures, the language of Executive Order 11652 is fundamentally sound. It establishes the three standard levels of classification--CONFIDENTIAL, SECRET, and TOP SECRET--and states that there shall be no other classifications.* It also contains injunctions against overclassification, establishes schedules for declassification and specifies exemptions to declassification. It does not, however, describe what kinds of disclosures are authorized for the various levels of classification. Adding this to the existing definitions of the three standard classifications in the Executive Order would facilitate the determination of what classified information may be disclosed to whom. It would also provide the additional guidance for assigning the appropriate level of classification that would be implied in a better understanding of the kinds of disclosures that are authorized for each level of classification. Some tentative guidelines for this purpose are:

*Attached is a short summary of the definitions and examples of the three standard classifications as stated in the Executive Order.

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- CONFIDENTIAL could be disclosed to the press and private individuals only with the assurance that the information would not be attributed publicly as an official position of the U.S. Government. Documents and other materials bearing the CONFIDENTIAL classification would not be made available to these persons. The traditional press backgrounder would fall into this category. The CONFIDENTIAL classification could include information well known to the public and foreigners but the official public acknowledgment of this information could reasonably be expected to damage U.S. national defense or foreign relations. It could also include the results of analysis of information from classified (or unclassified) intelligence sources as long as it did not contain information jeopardizing intelligence sources and methods.
- SECRET could be disclosed only to U.S. Government officials and employees who deal with defense matters and foreign relations, including certain economic matters. It would cover information which is not publicly available, which is uniquely available to the U.S. Government or which could jeopardize significant intelligence sources or methods.
- TOP SECRET could be disclosed only to those designated U.S. Government officials and employees who must have access to the specific information in order to carry out their responsibilities.

These guidelines could be supplemented to take care of the needs of the Congress, the needs of U.S. Government contractors, and the sharing of classified information with certain foreign governments and international organizations.

5. A review of the current situation leads me to conclude that the accumulation of detailed regulations, instructions and, most importantly, long-established practices tends to encourage unnecessary

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classification and overclassification. I have seen numerous complaints about presumably underclassified documents, but I have not seen any actions taken to implement the part of the Executive Order which states that any U.S. Government employee "who unnecessarily classifies or over-classifies information... shall be notified that his actions are in violation of this order.... Repeated abuse of the classification process shall be grounds for an administrative reprimand."

6. The present attitudes toward the classification and disclosure of classified information have evolved over the past two or three decades. With few exceptions, past changes in Executive Orders, directives and implementing regulations have had little effect on:

- How and why officials classify or disclose information.
- The rate at which classified documents are produced.
- The real protection afforded truly sensitive information.
- The frequency and severity of breaches of security.
- The availability of information to the public, the Congress, and various elements of the Executive Branch. (The principal exception to this is the Freedom of Information Act.)

All of these are primarily affected by the attitudes of the people who classify and have access to classified information:

- Attitudes about the degree of protection any kind of classification can be expected to provide.
- Attitudes about the "ownership" of official information and the rights of access to that information which the public, the press, the Congress, and various elements of the Executive Branch have.

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- Attitudes about the real need to protect most classified information.

7. The effects of these attitudes are often reflected in criticisms of the classification system both from within and from outside the Executive Branch, such as:

- Too much official information is being classified. The declassification of most classified documents would not really damage U.S. national defense or foreign relations.
- Information is often classified or overclassified automatically by officials without appropriate consideration of the applicable criteria.
- The classification system is often used to prevent the embarrassment of officials or departments rather than the national security.
- Classified information is often released selectively to the public by high-level officials of the Executive Branch for political purposes and with little regard for the sensitivity of the information.
- The Pentagon Papers affair, the Freedom of Information Act, and the recent revelations about intelligence activities published by the press and various Congressional Committees are proof of the abuse of the classification system.
- Because the three standard classifications do not provide adequate protection against unauthorized disclosure, the most effective way to protect truly sensitive information is to use restrictive handling markings, codewords, and bigot lists.

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- Much classified information is so restricted by handling markings, codewords, and bigot lists that many officials are denied access to information which is important to their jobs.
- The absence of effective legal penalties for the revelation of most classified information undermines the effectiveness of any classification system.
- The automatic declassification of information required by directives is not being implemented as scheduled mainly because of the large volume of classified documents and the failure to provide personnel to review and declassify them.

8. Criticisms of this sort are true to some extent. Even if none were true, the fact that these views are widely held significantly affects how people classify information and how they protect it. What these criticisms reflect is an increasing lack of confidence in the classification system--on the one hand, a lack of confidence that the system is able to prevent the unauthorized disclosure of classified information; and on the other, a lack of confidence that classifications are being applied to official information whose unauthorized disclosure would really damage our national defense or foreign relations. These two views tend to feed on each other by encouraging overclassification and by reducing the inhibitions against the unauthorized disclosures. In order to be effective changes in the classification process would have to generate confidence in the system and would require a thorough re-education of those who have the authority to classify information. Only from such a re-education program and evidence that new practices are being instituted to minimize the extent and degree of classification will there evolve an attitude of confidence that what is classified deserves protection against unauthorized disclosure. This new confidence, together with a law providing penalties for the unauthorized disclosure of classified information, should also produce more secure handling of such information by U.S. officials who have access to it.

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Intelligence Problems

9. Some progress is being made within the limited areas where the Director of Central Intelligence has unique authority; i. e., in matters dealing with satellite reconnaissance. Papers are now before the NFIB recommending reducing the classification and thereby improving the access to information derived from and attributed to this source. But, much more can be done within the Intelligence Community to simplify the multiplicity of restrictive handling controls (including special handling markings, compartments, and bigot lists). The use of these controls has increased as a reaction to the recent rash of disclosures of intelligence sources and methods and the belief that the three standard classifications do not afford significant protection against unauthorized disclosures.

10. The situation has reached a point where the number of these restrictive handling controls has become so great that most consumers of intelligence and many intelligence officials do not recognize the true meaning of these indicators. Thus, contrary to the purpose of these handling controls, their overuse tends to dilute the degree of protection afforded such intelligence. Furthermore, this overuse inhibits the full use of the information usually by the creation of bureaucratic hurdles to access. Officials in those organizations which conform strictly to the rules governing these restrictive handling controls are most adversely affected by their overuse. Users of intelligence, especially the military in the field, complain that the excessive use of these controls reduces the effectiveness of their operations by denying or delaying access to important intelligence.

11. This is not to say that all restrictive handling controls are unnecessary. Clearly, they have an important role in protecting truly sensitive aspects of some intelligence sources and methods. A bigot list does make sense when it is used to restrict knowledge of the sensitive details about a particular human source and when only a dozen or so officials have access to these details. However, one must question

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the true effectiveness of codeword systems when they are used to "control" virtually all aspects of a particular technical source and its products and when literally thousands of people are authorized access to this information. What is needed is much more restraint in creating new restrictive handling controls and using them. The rebuilding of confidence in the ability of the three basic classifications to protect intelligence from unauthorized disclosure would assist in reducing the use of these restrictive handling controls.

12. It is the practice in the Intelligence Community when producing all-source intelligence to classify the finished product at the highest level of classification (including all the restrictive handling controls) which may appear on the various documents used. This practice, sometimes referred to as "inherited classification", tends to produce documents which are overclassified and have excessive restrictive handling controls. Much more attention should be paid to classifying and controlling all-source intelligence on the basis of the contents of the finished document itself rather than simply following the practice of inherited classification.

13. In addition to increasing the usefulness of intelligence by officials who need it, a decrease in the use of restrictive handling controls, the level of classification and the amount of classified information could have the following benefits:

- Security: It should be apparent that the smaller the amount of highly classified information and the smaller volume marked with restrictive handling controls, the more effective can be the actual security that is provided truly sensitive intelligence.
- Declassification: Even though the Executive Order requires the automatic review and declassification of documents after specified periods of time, members of the Intelligence Community rarely

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take the initiative to declassify them. One reason for this is the lack of resources needed to review the vast amount of classified documents which has accumulated. But, to a large extent, unnecessary classification is the fundamental cause of this accumulation.

- Unclassified Publications: Part of the basis for the view that members of the Intelligence Community unnecessarily classify their information is that they seldom produce documents which are not classified. A program to issue unclassified intelligence publications would go a long way toward countering this view.

Objectives

14. The following objectives should be established for improving the effectiveness of the classification of intelligence:

- Restore confidence in the classification process.
- Provide broader access to intelligence by applying the lowest appropriate classification and the fewest restrictive handling controls.
- Reserve the use of restrictive handling controls to only those aspects of intelligence sources and methods that truly affect their viability so that they can provide the maximum protection to these aspects.

Principles and Approaches

15. On the basis of the preceding discussion and an earlier paper (dated 19 February 1976), I believe the Director of Central Intelligence and the Intelligence Community should adopt the following principles and approaches:

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- a. Supplement Executive Order 11652 with descriptions of the kinds of disclosures which are authorized for each level of classification.
- b. Create a separate classification system for source-revealing intelligence information, complete with its own classification words, or require the use of the marking, WARNING NOTICE--SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED, to indicate the information is different from other classified information.
- c. Require universal and mandatory execution of secrecy agreements by all who have official access to such classified intelligence and lobby for criminal penalties for any persons who violate the terms of the secrecy agreements.
- d. Review existing regulations and practices in order to correct those which tend to encourage unnecessary classification, overclassification, and the overuse of restrictive handling controls (including special handling markings, compartments, and bigot lists).
- e. Classify each document on its own merits and give it only those restrictive handling controls it requires, not by the practice of "classification by inheritance" but by an evaluation consistent with the standards of Executive Order 11652 and the degree to which the document reveals truly sensitive aspects of intelligence sources or methods.
- f. Prepare all-source finished intelligence for consumers outside the Intelligence Community so that references made to the truly sensitive aspects of intelligence sources and methods are only those necessary for appreciating the reliability of the information and assessments presented.

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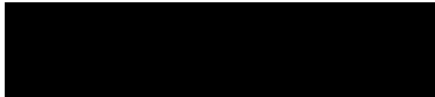
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- g. Consider using a single codeword [REDACTED] for all-source finished intelligence when that document refers to several compartmented collection systems.
- h. Establish mechanisms and procedures for policing the classification of intelligence information to prevent unnecessary classification, overclassification, and the overuse of restrictive handling controls.
- i. Conduct a re-education program for instructing classifiers of intelligence on the new classification standards and practices.
- j. Extend the usefulness of intelligence derived from satellite reconnaissance by approving the recommendations in the three papers currently before the NFIB on this subject.
- k. Encourage the production of unclassified publications by members of the Intelligence Community.
- l. Establish criteria for identifying the persons and basis for the release of classified intelligence to the public and prohibit any other public release of such intelligence.
- m. Consider the establishment of a single authority for the public release of intelligence information.
- n. Allocate resources for implementing the declassification requirements of Executive Order 11652.

Postscript

16. I believe that if effective actions along these lines are not taken to remedy the abuses of the classification system, Congress may react by passing a law which could be as difficult to implement as the Freedom of Information Act and which might not provide adequate protection for the truly sensitive aspects of intelligence sources and methods. Such a law could jeopardize the productivity of American sources of intelligence and cause friendly foreign governments to stop sharing vital intelligence with us. I believe that the Director of Central Intelligence should take even those limited actions within his authority to increase the usefulness of intelligence and to restore confidence in the classification system; confidence that all intelligence which is classified deserves to be classified--and at the proper level with only essential restrictive handling controls--and confidence that classified intelligence can be protected against unauthorized disclosure.

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Edward W. Proctor

Attachment:

Summary of definitions and examples of three standard classifications

MEMORANDUM FOR: The Director

Having run out of time, I am sending you the attached memorandum which is a frank summary of my views on classification problems and what might be done about them. In addition, three of my papers on increasing the usefulness of intelligence from reconnaissance satellites are to be discussed by the NFIB soon.

Obviously, much more has to be done, and if you wish this work to continue, someone should be assigned full time. The people who impressed me as most sympathetic to my views are [REDACTED] (Chairman of the Security Committee) and [REDACTED]

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Date 2 August 1976

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